

## **Assembly Bill No. 2221**

### **CHAPTER 812**

An act to amend Section 10177.2 of the Business and Professions Code, to amend Section 2079 of the Civil Code, and to amend Section 18025 of, and to add Sections 18046 and 18046.1 to, the Health and Safety Code, relating to mobilehomes and manufactured housing.

[Approved by Governor September 22, 1996. Filed  
with Secretary of State September 24, 1996.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2221, K. Murray. Mobilehomes and manufactured housing: consumer protection.

Under existing law, the Real Estate Commissioner may suspend or revoke a real estate license where the licensee, in connection with the sale of a mobilehome, commits certain specified acts, including the violation of prescribed provisions of the Health and Safety Code relating to mobilehomes and manufactured housing, the Revenue and Taxation Code, relating to vehicle license fees, and the Civil Code relating to the Automobile Sales Finance Act.

This bill would delete the references to the above provisions as grounds for the revocation or suspension of a real estate license.

Existing law provides that it is the duty of a real estate broker or salesperson to a prospective purchaser of residential real property comprising 1 to 4 residential dwelling units, including a manufactured home, to make an inspection of, and disclosure regarding, the property.

This bill would revise this provision to instead provide that the real estate broker or salesperson has this duty to a prospective purchaser of residential real property or a manufactured home.

Under existing law it is unlawful to sell, offer for sale, rent, or lease a manufactured home or mobilehome containing specified equipment or systems unless those systems meet requirements established by the Department of Housing and Community Development, with specified exceptions.

This bill would except the sale of used manufactured homes and mobilehomes from these provisions and would make those sales subject to other provisions added by this bill relating to the duty of a dealer of a used manufactured home to inspect and make specified disclosures relating to the condition of the home to a prospective purchaser. It would also make the sale of these homes by a real estate broker or licensed salesperson subject to the inspection and disclosure requirements imposed on the broker or salesperson.

This bill also would define the standard of care owed by a dealer of manufactured homes and mobilehomes to a purchaser to be that which a reasonably prudent dealer would exercise measured by the degree of knowledge through education, experience, and examination required to obtain a license pursuant to existing law.

Because this bill would amend existing law for which criminal penalties are prescribed and would add provisions the violation of which would be subject to criminal penalties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 10177.2 of the Business and Professions Code is amended to read:

10177.2. The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any licensee, and he or she may suspend or revoke a real estate license at any time where the licensee in performing or attempting to perform any of the acts within the scope of Section 10131.6 has been guilty of any of the following acts:

(a) Has used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a mobilehome, or otherwise committed a fraud in that application.

(b) Failed to provide for the delivery of a properly endorsed certificate of ownership or certificate of title of a mobilehome from the seller to the buyer thereof.

(c) Has knowingly participated in the purchase, sale, or other acquisition or disposal of a stolen mobilehome.

(d) Has submitted a check, draft, or money order to the Department of Housing and Community Development for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

SEC. 2. Section 2079 of the Civil Code is amended to read:

2079. (a) It is the duty of a real estate broker or salesperson, licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code, to a prospective purchaser of residential real property comprising one to four dwelling units, or a manufactured home as defined in Section 18007 of the Health and Safety Code, to conduct a reasonably competent and diligent visual inspection of the property offered for sale and to disclose to that

prospective purchaser all facts materially affecting the value or desirability of the property that an investigation would reveal, if that broker has a written contract with the seller to find or obtain a buyer or is a broker who acts in cooperation with that broker to find and obtain a buyer.

(b) It is the duty of a real estate broker or salesperson licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code to comply with this section and any regulations imposing standards of professional conduct adopted pursuant to Section 10080 of the Business and Professions Code with reference to Sections 10176 and 10177 of the Business and Professions Code.

SEC. 3. Section 18025 of the Health and Safety Code is amended to read:

18025. (a) Except as provided in subdivisions (b) , (c), and (d), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome, commercial coach, special purpose commercial coach, or recreational vehicle manufactured after September 1, 1958, containing structural, fire safety, plumbing, heat-producing, or electrical systems and equipment unless the systems and equipment meet the requirements of the department for those systems and equipment and the installation of them. The department may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for structural, fire safety, plumbing, heat-producing, and electrical systems and equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe structural, fire safety, plumbing, heat-producing, and electrical equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401 et seq.).

(c) The sale of used manufactured homes and mobilehomes by a dealer licensed pursuant to this part shall be subject to Section 18046.

(d) The sale of used manufactured homes and mobilehomes by a real estate broker or salesperson licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code shall be subject to Section 2079 of the Civil Code.

SEC. 4. Section 18046 is added to the Health and Safety Code, to read:

18046. It is the duty of a dealer licensed under this chapter to a prospective purchaser of a used manufactured home to conduct a reasonably competent and diligent visual inspection of the home offered for sale and to disclose to that prospective purchaser all facts materially affecting the value or desirability of the home that an investigation would reveal, if that dealer has a written contract with

the seller to find or obtain a purchaser or is a dealer who acts in cooperation with others to find and obtain a purchaser. A dealer may discharge this duty by completing the agent's portion of the transfer disclosure statement that a seller prepares and delivers to a purchaser pursuant to Section 1102 of the Civil Code.

SEC. 5. Section 18046.1 is added to the Health and Safety Code, to read:

18046.1. The standard of care owed by a dealer to a purchaser under this part is the degree of care that a reasonably prudent dealer would exercise and is measured by the degree of knowledge through education, experience, and examination required to obtain a license under this chapter.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

